

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Patrick Miles et al.

Title: SURGICAL ACCESS SYSTEM AND RELATED METHODS

Docket No.: 80100.014US1

Filed: February 27, 2004

Examiner: Unknown



Serial No.: 10/789,797

Due Date: N/A

Group Art Unit: Unknown

**Mail Stop Amendment**

Commissioner for Patents

P.O. Box 1450

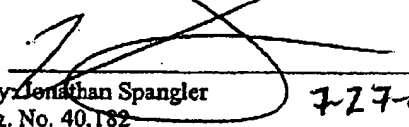
Alexandria, VA 22313-1450

We are transmitting herewith the following attached items (as indicated with an "X"):

☒ A return postcard.☒ An Information Disclosure Statement (2 pgs.), Form 1449 (5 pgs.), and copies of 24 cited documents.

If not provided in a separate paper filed herewith, Please consider this a PETITION FOR EXTENSION OF TIME for sufficient number of months to enter these papers and please charge any additional fees or credit overpayment to Deposit Account No. 50-2040.

CUSTOMER NUMBER 30,328, (858-527-1936)

By:   
Atty: Jonathan Spangler  
Reg. No. 40,182 727-04

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27 day of July, 2004.

MEREDITH MESCHER

Name

Meredith Mescher

Signature

(GENERAL)

S/N 10/789,797PATENT**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant:	Patrick Miles et al.	Examiner:	Unknown
Serial No.:	10/789,797	Group Art Unit:	Unknown
Filed:	February 27, 2004	Docket:	80100.014US1
Title:	Surgical Access System and Related Methods		

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**INFORMATION DISCLOSURE STATEMENT**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

In compliance with the duty imposed by 37 C.F.R. § 1.56, and in accordance with 37 C.F.R. §§ 1.97 *et. seq.*, the enclosed materials are brought to the attention of the Examiner for consideration in connection with the above-identified patent application. Applicants respectfully request that this Information Disclosure Statement be entered and the documents listed on the attached Form 1449 be considered by the Examiner and made of record. Pursuant to the provisions of MPEP 609, Applicants request that a copy of the 1449 form, initialed as being considered by the Examiner, be returned to the Applicants with the next official communication.

Pursuant to 37 C.F.R. §1.97(b), it is believed that no fee or statement is required with the Information Disclosure Statement. However, if an Office Action on the merits has been mailed, the Commissioner is hereby authorized to charge the required fees to Deposit Account No. 50-2040 in order to have this Information Disclosure Statement considered.

Applicant believes that the U.S. Patent & Trademark Office has waived the requirement under 37 C.F.R. 1.98 (a)(2)(i) for submitting a copy of each cited U.S. patent and each U.S. patent application publication. The waiver is provided in a pre-OG notice from the U.S. Patent & Trademark Office entitled "Information Disclosure Statements May Be Filed Without Copies of U.S. Patents and Published Applications in Patent Applications filed after June 30, 2003" and dated July 11, 2003. Applicant acknowledges the requirement to submit copies of foreign patent documents and non-patent literature in accordance with 37 C.F.R. 1.98(a)(2).

Applicant acknowledges the requirement to submit copies of foreign patent documents and non-patent literature in accordance with 37 C.F.R. 1.98(a)(2) and has included for the examiner's consideration copies of International Search Reports for the following PCT applications: PCT/US00/32329, PCT/US01/18606, PCT/US01/18579, PCT/US02/22247, PCT/US03/02056, PCT/US/02/35047, and PCT/US02/30617 which are also list on the 1449 form enclosed herewith.

The Examiner is invited to contact the Applicants' Representative at the below-listed telephone number if there are any questions regarding this communication.

Respectfully submitted,

PATRICK MILES ET AL.

By their Representatives,

CUSTOMER NUMBER 30,328  
858-527-1936

Date 7-27-04

By [Signature]  
Jonathan Spangler  
Reg. No. 40,182

**CERTIFICATE UNDER 37 CFR 1.6:** The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 27 day of July, 2004.

MEREDITH NESCHER  
Name

Meredith Mescher  
Signature

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)



Complete if Known

Application Number	10/789,797
Filing Date	February 27, 2004
First Named Inventor	Miles, Patrick
Group Art Unit	Unknown
Examiner Name	Unknown

Sheet 1 of 5

Attorney Docket No: 80100.014US1

**US PATENT DOCUMENTS**

Examiner Initial *	USP Document Number	Publication Date	Name of Patentee or Applicant of cited Document	Class	Subclass	Filing Date If Appropriate
	US-2002/0007129 A1	01/17/2002	Marino, J. F.	600	546	06/08/2001
	US-2002/0072686 A1	06/13/2002	Hoey, M. , et al.	600	547	05/18/2001
	US-2,704,064	03/15/1955	Fizzell, J. A., et al.	128	2.1	09/10/1952
	US-3,364,929	01/23/1968	Ide, W. S., et al.	128	172.1	12/21/1964
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	US-4,224,949	09/30/1980	Scott, Norman R., et al.	128	734	11/17/1977
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	US-4,285,347	08/25/1981	Hess, S. R.	128	785	07/25/1979
	US-4,291,705	09/29/1981	Severinghaus, John W., et al.	600	546	09/10/1979
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	US-4,561,445	12/31/1985	Berke, Joseph , et al.	128	642	05/25/1983
	US-4,592,369	06/03/1986	Davis, Graham R., et al.	128	733	07/08/1983
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	US-4,633,889	01/06/1987	Talalla, A.	128	784	12/12/1984
	US-4,658,835	04/21/1987	Pohndorf, P. J.	128	785	07/25/1985
	US-4,744,371	05/17/1988	Harris, D. L.	607	117	04/27/1987
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	US-4,926,865	05/22/1990	Oman, P. S.	128	421	01/17/1989
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**EXAMINER****DATE CONSIDERED**

Substitute Disclosure Statement Form (PTO-1449)

\* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 809. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant. † Applicant's unique citation designation number (optional) ‡ Applicant is to place a check mark here if English language Translation is attached

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**INFORMATION DISCLOSURE  
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Complete if Known

<b>Application Number</b>	10/789,797
<b>Filing Date</b>	February 27, 2004
<b>First Named Inventor</b>	Miles, Patrick
<b>Group Art Unit</b>	Unknown
<b>Examiner Name</b>	Unknown

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Attorney Docket No: 80100.014US1

	US-5,007,902	04/16/1991	Witt, H.	604	117	02/22/1989
	US-5,058,602	10/22/1991	Brody, Stanley R.	128	733	10/04/1989
	US-5,081,990	01/21/1992	Deletis, Vedran	128	642	05/11/1990
	US-5,092,344	03/03/1992	Lee, T.	128	741	11/19/1990
	US-5,127,403	07/07/1992	Brownlee, Robert R.	128	419 P	08/21/1990
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	US-5,196,015	03/23/1993	Neubardt, Seth L.	606	61	04/30/1992
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	US-5,284,153	02/08/1994	Raymond, S. A., et al.	128	741	04/14/1992
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	US-5,312,417	05/17/1994	Wilk, Peter	606	114	07/29/1992
	US-5,313,956	05/24/1994	Knutsson, E., et al.	128	741	08/04/1992
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	US-5,474,558	12/12/1995	Neubardt, S. L.	606	79	07/18/1994
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EXAMINER

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Application Number	10/789,797
Filing Date	February 27, 2004
First Named Inventor	Miles, Patrick
Group Art Unit	Unknown
Examiner Name	Unknown

Sheet 3 of 5

Attorney Docket No: 80100.014US1

	US-5,888,196	03/30/1999	Bonutti, Peter M.	600	204	06/05/1995
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**FOREIGN PATENT DOCUMENTS**

Examiner Initials*	Foreign Document No	Publication Date	Name of Patentee or Applicant of cited Document	Class	Subclass	T <sup>2</sup>
	WO-0066217A1	11/09/2000	Epstein, R., et al.	A61N	1/36	

**OTHER DOCUMENTS -- NON PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		"Electromyography System", International Search Report, International Application No. PCT/US00/32329, (April 27, 2001), 9 pages	
		"Nerve Proximity and Status Detection System and Method", International Search Report, International Application No. PCT/US01/18606, (October 18, 2001), 6 pages	
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EXAMINER

DATE CONSIDERED

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<b>Application Number</b>	10/789,797
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<b>First Named Inventor</b>	Miles, Patrick
<b>Group Art Unit</b>	Unknown
<b>Examiner Name</b>	Unknown

Sheet 4 of 5

Attorney Docket No: 80100.014US1

**OTHER DOCUMENTS -- NON PATENT LITERATURE DOCUMENTS**

Examiner Initials*	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
		"System and Methods for Determining Nerve Direction to a Surgical Instrument", <u>International Search Report</u> , International Application No. PCT/US03/02056, (August 12, 2003), 5 pages	
		"Systems and Methods for Performing Percutaneous Pedicle Integrity Assessments", <u>International Search Report</u> , International Application No. PCT/US02/35047, (August 11, 2003), 5 pages	
		"Systems and Methods for Performing Surgery Procedures and Assessments", <u>International Search Report</u> , International Application No. PCT/US02/30617, (June 5, 2003), 4 pages	
		BOSE, et al., "Neurophysiologic Monitoring of Spinal Nerve Root Function During Instrumented Posterior Lumbar Spine Surgery", <u>Spine</u> , 27(13), (2002), 1444-1450	
		CALANCIE, et al., "Stimulus-Evoked EMG Monitoring During Transpedicular Lumbosacral Spine Instrumentation", <u>Spine</u> , 19(24), (1994), 2780-2786	
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<b>Group Art Unit</b>	Unknown
<b>Examiner Name</b>	Unknown

Sheet 5 of 5

Attorney Docket No: 80100.014US1

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		RAYMOND, et al., "The Nerve Seeker: A System for Automated Nerve Localization", <u>Regional Anesthesia</u> , 17(3), (1992),151-162	
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		TOLEIKIS, et al., "The Usefulness of Electrical Stimulation for Assessing Pedicle Screw Replacements", <u>Journal of Spinal Disorder</u> , 13(4), (2000),283-289	

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